

Hilda Iris Zana

Aaron M. Ogletree vs. Cleveland State University, et al.

July 27, 2021



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Hilda Iris Zana
July 27, 2021

1

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF OHIO3 AARON M. OGLETREE,)
4) Plaintiff(s),)
5) vs.) Case No.
6)) 1:21-cv-00500
7 CLEVELAND STATE) Judge J. Philip
UNIVERSITY, ET AL.,) Calabrese
8) Defendant(s).)
9)10 - - - - -
11 DEPOSITION OF HILDA IRIS ZANA
12 Tuesday, July 27, 2021
13 - - - - -14 The deposition of HILDA IRIS ZANA, called by
15 the Plaintiff for examination pursuant to the
16 Federal Rules of Civil Procedure, taken
17 before me, the undersigned, Lisa A. Stropko,
18 Notary Public within and for the State of
19 Ohio, taken remotely via Zoom, commencing at
20 10:00 a.m., the day and date above set forth.
21
22
23
24
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July 27, 2021

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Hilda Iris Zana
July 27, 2021

3

EXAMINATION INDEX

HILDA IRIS ZANA

BY MR. BESSER	4
BY MR. MARTI	46
BY MR. BESSER	57

EXHIBIT INDEX

		MAR
Plaintiff's Exhibit		
1	Offsite Proctor Form	10
2	Test Proctoring Resources	27
3	Honorlock Standard Exam Guidelines	28
4	Video	41

Hilda Iris Zana
July 27, 2021

4

1 HILDA IRIS ZANA

2 of lawful age, called by the Plaintiff for
3 examination, under the Federal Rules of Civil
4 Procedure, after having been first duly
5 sworn, as hereinafter certified, was examined
6 and testified as follows:

7 - - - - -

8 EXAMINATION

9 BY MR. BESSER:

10 Q Hello, Iris. I'm Matt Besser. I've been
11 appointed by the court to represent Aaron
12 Ogletree in this case.

13 Can you just give me your full name
14 for the record?

15 A Hilda Iris Zana.

16 Q And where do you live?

17 A Downtown. East 41st Street, downtown
18 Cleveland.

19 Q What's your address? We won't put it in
20 the public record.

21 A 1403 East 41st Street.

22 Q Have you ever been deposed before?

23 A No.

24 Q You are in a deposition now.

25 A No, I've never been.

July 27, 2021

5

1 Q All right. And hopefully we will get you
2 out of here fairly quickly today.

3 You are under oath. It is the same
4 oath that you would take if you are
5 testifying in court in front of a judge
6 or jury. Is there any reason why you
7 can't testify truthfully today?

8 A No.

9 Q If I ask you a question that either gets
10 garbled in the video transmission or
11 doesn't make sense, will you commit to me
12 now that you will just let me know and
13 give me a chance to rephrase it?

14 A Sure.

15 Q Thanks. And because we have got Lisa
16 here taking down everything we say, I
17 just need you to let me finish my
18 question and I will do my best to let you
19 finish your answer so we are not talking
20 over each other, okay?

21 A Yes, sir.

22 Q All right. Thank you. Where are you
23 employed?

24 A Cleveland State University Testing
25 Services.

July 27, 2021

6

Q How long have you worked for Cleveland State?

A I've worked there 15 years.

Q Are you full-time?

A Yes, sir.

Q What's your job title?

A Test monitor.

Q Has that been your job the whole 15 years?

A Yes, sir.

Q I think I know the answer to this but tell me what a monitor does.

A Monitor exams.

Q What all goes into that?

A I set the appointments. I oversee some of the testing going on. I make sure no one is cheating, keeping the integrity of the exam in place, and returning them back to the professors.

Q Do you do that in person as well as remote?

A Yes.

Q Have you described for me the essential job duties of a test monitor?

A I'm sorry, rephrase.

July 27, 2021

7

1 Q Yeah. Are those the main job duties of a
2 test monitor?

3 A Yes.

4 Q Is that also called a proctor?

5 A Yeah. Proctor, invigilator. There's a
6 bunch of names.

7 Q So am I correct that Cleveland State has
8 some minimum qualifications, some
9 professional experience qualifications
10 that are required before you can become a
11 proctor?

12 A Actually, before I started working full-
13 time for Cleveland State, I was hired as
14 a proctor for national testing on the
15 weekends, so I did that from '98 until
16 2005, and then in 2005 I was hired on
17 here.

18 MR. BESSER: All right.
19 I'm going to email some documents. Todd, is
20 it okay if I email to both of you at the same
21 time?

22 MR. MARTI: Sure.

23 MR. BESSER: So give me a
24 second. I'm going to send them by email.
25 They are all short.

July 27, 2021

8

1 Q So I have emailed you three documents. I
2 expect that they are the only paper
3 documents we will need today.

4 While we are waiting for them to come
5 through, I should just say for clarity
6 sake that since we are doing this by
7 Zoom, where are you physically located
8 right now?

9 A I'm at Cleveland State University in the
10 Testing Services Office.

11 Q All right. Is there anyone in the room
12 with you?

13 A No, sir. Would you like to see?

14 Q No, I wouldn't. That's sort of the
15 point. I will just ask for your
16 commitment that you won't confer with
17 anyone about my questions and answers on
18 the record or during your deposition
19 unless you are speaking to counsel.

20 A Correct. I'm a big girl. I can handle
21 myself.

22 Q All right. Thank you. So I sent you an
23 email. It should come from me. Let me
24 know if you get it.

25 A I'm waiting.

Hilda - this is Zana
July 27, 2021

9

1 Q Check your spam filter. It will be from
2 mbesser. Is your email
3 h.zana@csuohio.edu?

4 A Correct. Still nothing.

5 MR. MARTI: I haven't
6 gotten it either, Matt.

7 Q It must have be the humidity.

8 A I'm not getting it. For some reason this
9 computer is running really slow too.
10 There it is.

11 Q You've got it?

12 MR. MARTI: I haven't
13 received it yet though.

14 MR. BESSER: I will throw
15 it up on the screen too. Can you see my
16 screen?

17 MR. MARTI: I can.

18 Q So Hilda, one of the documents I have
19 sent you is titled "Offsite Proctor Form"
20 or something like that. That's this one
21 that I've got up on the screen now. I'm
22 going to mark it as [Exhibit 1](#) for the
23 deposition for the record.

24 - - - - -

25 (Plaintiff's [Exhibit 1](#))

July 27, 2021

10

marked for identification.)

- - - - -

Q Is this a form that you have seen before?

I realize you've been a proctor for 15 years now.

A That's not our form.

Q This is a Cleveland State University eLearning form. That's not a form from Cleveland State?

A That's the Center for eLearning. We are two different departments. I'm with Testing Services, sir.

Q Got it. So those are under different departments?

A Correct.

Q All right. Well, I will need you to explain that for me in a minute.

The Center for eLearning, is that an office within Cleveland State you are familiar with?

A Yes, sir.

Q And they use proctoring as well?

A I believe so. It looks like they do.

Q I'm going to scroll to the second page.

Do you see at the top there it says,

July 27, 2021

11

1 "Proctors must meet several
2 requirements?"

3 A Okay.

4 Q And under that, the first one says
5 "Proctors may not be a relative, friend,
6 roommate of the student." Do you see
7 that?

8 A Yes, sir.

9 Q And then a little bit further down there
10 is a box that says, "Acceptable person to
11 serve as a proctor." Do you see that?

12 A Yes, sir.

13 Q You want. Take a second and look at
14 that.

15 Are those standards of who is an
16 acceptable person to serve as a proctor
17 the same in your office?

18 A Yes, sir.

19 Q Okay. So all I'm getting at is Cleveland
20 State has set up some sort of minimum
21 professional experience or qualifications
22 that someone would have to have before
23 they could be a qualified proctor,

24 A Correct. And this is also pretty much as
25 far as nationally what we use as testing

July 27, 2021

12

1 personnel.

2 Q You are saying this is sort of a national
3 standard?

4 A Pretty much, yeah.

5 Q So it's not as though a proctor could
6 just be anybody off the street. You have
7 to be either a teacher or a public
8 librarian or a school administrator or a
9 military officer, correct?

10 A Correct.

11 Q So let's differentiate the two different
12 offices then for my understanding.

13 What does the Office of Testing
14 Services do? What sorts of tests does it
15 cover that make it different from the
16 center for eLearning?

17 A We do more in-person exams. We are
18 physically here. The only reason we have
19 done remote is because of the pandemic.

20 Q Before the pandemic your office wasn't
21 doing remote proctoring?

22 A No.

23 Q If you know, what does the center for
24 eLearning do?

25 A Everything for them is web-based.

July 27, 2021

13

1 Q Do you know, do they also do remote
2 testing?

3 A Yes.

4 Q So in terms of the remote testing, what's
5 the differentiation between the Center
6 for eLearning and the Office of Testing
7 Services?

8 A I'm not sure. I'm not part of the
9 department.

10 Q All right. Fair enough.

11 Does the Office for Testing Services
12 cover test proctoring for every remote
13 test for every sort of class and remote
14 test that Cleveland State offers or is it
15 a subset?

16 A Rephrase the question.

17 Q Sure. Does the Office for Testing
18 Services do remote proctoring for any
19 class at Cleveland State?

20 A Right now we are part of Disability
21 Services. So when the pandemic hit, our
22 main focus was our students of disability
23 and their needs and what we needed to
24 successfully help them get through the
25 semester and through their testing needs.

July 27, 2021

14

1 Q I think I understand.

2 So your office handles proctoring for
3 students with accommodations?

4 A Correct.

5 Q But it wouldn't handle proctoring for the
6 general population of students taking
7 remote tests?

8 A You are correct in saying that, yes.

9 Q Okay. In your time with Cleveland State
10 as a proctor, have your job duties been
11 just proctoring for students with
12 accommodations, or has it been also for
13 proctoring the general population of
14 students?

15 A When I first started here, the office was
16 connected with counseling services. Our
17 main focus back then was doing national
18 exams and certifications only. We
19 weren't involved with Disability Services
20 so we did not test anyone with
21 accommodations back then. Recently
22 within the last two, three years, our
23 offices have been combined and now our
24 focus is to give the best services to
25 accommodations at this point.

July 27, 2021

15

1 Q So it was two or three years ago that the
2 switch went over to students with
3 accommodations?

4 A Uh-huh.

5 Q That was a yes just for the record?

6 A Yes, sir.

7 Q Do you know whether the center for
8 eLearning uses the same remote testing
9 tools and procedures as your office?

10 A We're not in the same department, so no.

11 Q Okay. Let's talk a little bit about the
12 remote testing procedures in your office.

13 At the start do students who are
14 taking a remote test need to have a photo
15 ID on file with Cleveland State?

16 A Not on file, no.

17 Q They don't need to provide some photo
18 identification to the school before
19 engaging in remote learning?

20 A I would imagine they would do that when
21 they register and do their application to
22 get into school.

23 Q Okay. Do you know whether Cleveland
24 State has a photo identification of every
25 student? It's okay if you don't know.

July 27, 2021

16

1 A I have no idea.

2 Q All right. I don't want you to guess.

3 A No, I have no clue.

4 Q All right. So let's just take a typical
5 remote test that your office proctors.

6 I'm sorry, let's take a typical in-person
7 test that your office would proctor in a
8 non-COVID world.

9 A How would I handle that?

10 Q Yeah. What are the procedures if a
11 student is coming in to take an in-person
12 test proctored by you?

13 A Okay. You are going to come in, you're
14 going to talk to the secretary and let
15 her know you are there for your
16 appointment. She's going to ask you for
17 identification. She is going to check
18 that ID. It can be a CSU ID or a
19 State-issued ID as long as it's a valid
20 ID and not expired.

21 Once we have cleared and taken that
22 down, she checks you into the system and
23 says you're here and lets me know that
24 you are here, and then I go greet you at
25 the front.

July 27, 2021

17

1 I walk you over to the lockers. I
2 ask you to put away all personal
3 belongings, shut down your cell phone all
4 the way, make sure you have no notes that
5 could be construed as something for
6 cheating. Whatever is on the cover
7 sheet. Which means what the professor
8 tells me what you are allowed to use.

9 So if you are allowed to use a
10 calculator, I check your calculator. I
11 say these are the things you are allowed.
12 I say okay, Matthew, you are taking
13 chemistry 262, Section 2, Exam 3 today.
14 You are allowed a calculator, scrap
15 paper, pen or pencil, but that's all
16 you're allowed.

17 I make sure that you put your stuff
18 away. All the other personal belongings
19 you put into a locker. Once I have
20 cleared you, then I walk you over to the
21 room, sit you down, make sure that you
22 write your name on the exam and get you
23 ready.

24 Once I acknowledge that you are ready
25 and you acknowledge to me that you are

July 27, 2021

18

1 ready, then I start the timer and you
2 start your exam. But I'm watching you
3 and I am watching you the whole time.

4 Q So from exam to exam the professor will
5 determine what things a student is
6 allowed to use during the test?

7 A Oh, yeah, definitely.

8 Q So in a remote testing situation can you
9 walk me through what the procedures would
10 be?

11 A Well, I would send an invitation just
12 like this Zoom invitation that you sent
13 to me. I usually am on there about 15 to
14 10 minutes, about 15 minutes before
15 anybody else gets on just so that when
16 they do arrive into the room I can let
17 them in immediately.

18 Usually, well 90 percent of all the
19 testing we have done has been one-on-one.
20 It's just lined up that I had a couple
21 other people in the test at the time that
22 Aaron took it.

23 But once they get in, they show me
24 their ID, I ask them if they have their
25 materials that they were allowed, which I

July 27, 2021

19

1 usually send in an email. So if they are
2 allowed a formula sheet, I'll send them
3 over a formula sheet attached to the
4 email that tells them what time to get in
5 and their pass code to get in the
6 meeting.

7 Once they show me their ID, I ask
8 them if they have their materials and
9 everything they need ready. If they say
10 yes, I ask them to take a quick look
11 around the room to make sure that any
12 other personal belonging are put away,
13 which they are told to beforehand.

14 Also, in the email it says you are to
15 make sure you know that I'm going to be
16 checking your space so make sure it's
17 cleared of having anything besides what
18 you need for the exam and then I take a
19 quick look and then I start them.

20 Q As with in-person tests, do the
21 professors get to determine what
22 materials a student is allowed to use
23 during a remote test?

24 A Yes. It's their test.

25 Q And am I correct that that would vary

July 27, 2021

20

1 from class to class how much a student is
2 allowed to use open book versus closed
3 book depending on the professor and the
4 class?

5 A Correct.

6 Q Did you say that students need to show ID
7 for a remote test?

8 A Yes, just like when they walk in here.

9 Q Can they wear hats or sunglasses during a
10 remote test?

11 A Sunglasses I would definitely -- I mean,
12 to be able to see who you are I would ask
13 you to take them off.

14 Q Okay.

15 A Now, if the student had sunglasses on,
16 there must be a reason. I'm not going to
17 ask them about their disability.

18 So I would say "Can I see your face?
19 Do you really need those sunglasses? If
20 you do, no problem, keep them on." Hats
21 are not a problem either.

22 Q Okay. Is that the same for an in-person
23 test?

24 A Yes. If they were in class, they could
25 wear a hat. Now, on the level that you

July 27, 2021

21

1 are talking about no hats, no sunglasses,
2 that's national testing. That's a whole
3 different ball game. It's a lot
4 stricter.

5 Q So you wouldn't typically make a student
6 take off their hat and look inside the
7 brim like a major league pitcher or
8 anything like that?

9 A They don't do it in class for 200 of them
10 so I can't do it here, no, sir.

11 Q And I am correct that for remote
12 proctoring there are a couple of
13 different computer programs or maybe they
14 are called tools that are used to
15 administer the tests?

16 A With the pandemic, and we have never done
17 remote testing, this is how we did remote
18 testing. That's it. It was the
19 computer, us and our students.

20 Q Right.

21 A I don't know about any other programs.
22 We didn't use them.

23 Q Okay. Is there a computer program that
24 the students use to take the test? Is it
25 done through a secure website? How does

July 27, 2021

22

1 that work?

2 A We did his test on Blackboard. And
3 that's pretty much -- I'm not sure. I
4 know they do homework there. Their
5 syllabuses are given to them there,
6 assignments for the class is given to
7 them there. So a lot of professors use
8 it to also upload their exams and then
9 they take it on there. That's all I know
10 about it.

11 Q Blackboard is a remote learning program
12 for a class?

13 A Yeah, I would say that. I think so. I'm
14 not into the IT stuff. All I know is
15 they know how to log in there, get their
16 assignments, they can see their syllabus,
17 they can email professionals. That's
18 what I have seen of it. They do quizzes
19 and exams.

20 Q When you had to start doing remote
21 proctoring because of the pandemic, did
22 the school give you training on how to
23 administer them?

24 A No.

25 Q Did they require you to get any training

July 27, 2021

23

1 on your own? What I'm getting at is how
2 did you know what the procedures were
3 going to be?

4 A We discussed them as a group. Like I
5 said, when the pandemic hit nobody was
6 ready for it. We weren't ready for it.
7 All of our stuff was always live and in
8 person. So we kind of went by what our
9 supervisors said and we discussed how we
10 would handle our situation because we
11 weren't going to be in person anymore and
12 that's about it.

13 Q Are there requirements for where students
14 have to be when they take a test or where
15 they are allowed to take a remote test?

16 A As long as they are still in an area
17 where they can concentrate, it's up to
18 them where they want to take it, whether
19 in their house or wherever they are at,
20 but we just ask them to clear their area.

21 Q Are they allowed to use a virtual
22 background instead of the actual
23 background behind them?

24 A Yeah. I never told anybody they
25 couldn't.

July 27, 2021

24

1 Q When you proctor remote tests, am I right
2 that you can typically see the background
3 of the student where they are?

4 A Yeah. Oh, yeah. I'm looking at them
5 like I'm looking at you just like you are
6 looking at me.

7 Q So you could see here that I'm in what
8 looks to be an office, right?

9 A Yes, sir.

10 Q Do students sometimes take their remote
11 tests in their homes?

12 A Most of the time, yes.

13 Q Do they sometimes take it in their
14 bedrooms?

15 A Yeah.

16 Q Let me back up. Do I understand that the
17 Office of Testing Services is different
18 from the Center for eLearning?

19 A Correct.

20 Q Is there an overarching department or
21 center that the Office of Testing
22 Services is part of or is it its own
23 independent unit?

24 A We are part of the Office of Disability
25 Services now.

July 27, 2021

25

1 Q Understood. Okay. Maybe you said that
2 before. Thank you.

3 I'm going to show you a printout from
4 the Center of eLearning and I was just
5 going to ask you if you are familiar with
6 some of the terms and things listed on
7 there.

8 MR. MARTI: Matt, is that
9 the online proctoring resource document?

10 Q Yes, it is. So Iris, it will be the
11 second document I emailed you called
12 Online Test Proctoring Resources.

13 Iris, can you see my screen?

14 A I see it.

15 Q I have printed out a page from the Center
16 for eLearning. Do you see at the top it
17 says in orange "Test Proctoring
18 Resources?"

19 A Yes, sir.

20 Q And then a little below that it lists
21 three tools. Do you see those listed?

22 A I do.

23 Q The first is Respondus Lockdown browser,
24 the second is Respondus Monitor and the
25 third is Honorlock. Are you familiar

July 27, 2021

26

1 with those tools?

2 A I have never used them. I have heard of
3 them, yes.

4 MR. MARTI: Matt, sorry to
5 interrupt you. Is this going to be [Exhibit 2](#)?

6 MR. BESSER: Yes, I'm
7 sorry. You're not interrupting. It's okay.

8 - - - - -

9 (Plaintiff's [Exhibit 2](#)
10 marked for identification.)

11 - - - - -

12 Q You have heard of them but never used
13 them, is that right?

14 A Correct.

15 Q But if a professor wanted them used in
16 one of the remote testing proctors, would
17 that be admissible?

18 A Rephrase.

19 Q Yeah. If professor said I want to give a
20 remote test to this student and I want to
21 do it through the Lockdown Browser, the
22 professor would be allowed to require
23 that, right?

24 A Yes.

25 Q Have you ever heard of a tool called

July 27, 2021

27

Tegrity, T-E-G-R-I-T-Y?

A No.

Q I'm going to show you the third document,
and I think that's the last document I
will use.

Can you see my screen still?

A Yes, sir.

Q We will call this [Exhibit 3](#). It's the
file labeled Honorlock.

- - - - -

(Plaintiff's [Exhibit 3](#)
marked for identification.)

- - - - -

Q So I know you said you hadn't used
Honorlock before, is that right?

A I have not, no.

Q Okay. Do you see where it says testing
area?

A Yes.

Q Okay. It's the fourth bullet down. I
will highlight it.

A I see it.

Q It says, "Students must show the work
area as well as the entire room during
the room scan."

July 27, 2021

28

1 So my first question is is room scan
2 a term that you're familiar with?

3 A Yes, sir.

4 Q All right. Could you tell me in your own
5 words what a room scan is?

6 A Do you want me to show you?

7 Q No. Just tell me.

8 A You scan the room. You ask them to
9 physically with their camera scan the
10 room.

11 Q Just go in a circle?

12 A Yes. That's what I require from them.

13 Q Do you know, do other proctors require
14 something different?

15 A I know that they are a little more
16 intense like ProctorU. I know they're a
17 little more intense than what I ask for.

18 Q What do you know about that?

19 A Just articles and reading about them
20 because we were thinking about using them
21 when the pandemic had hit.

22 Q You are saying there are protocols that
23 are more intense. You are not saying
24 that other proctors in Cleveland State do
25 something more intense?

July 27, 2021

29

1 A No. Yes, you just clarified that. Yes,
2 correct. Yeah, no.

3 Q How long does a room scan typically take?

4 A For me it should take less than a minute.

5 Q I know you said most of the tests you
6 proctor remotely are one-on-one. But in
7 the times when they are not one-on-one,
8 can the other students in the remote test
9 see the room scan for a given student?

10 A Yes.

11 Q Can you explain to me in your own words
12 what the purpose of the room scan is?

13 A To make sure there is no notes, papers,
14 cheat notes, a friend hanging out to give
15 them answers.

16 Q What are you supposed to do if a student
17 refuses to do the room scan?

18 A If they refuse?

19 Q Right.

20 A Let them know that that's fine. That we
21 can reschedule for another date.

22 Q They are not allowed to take the test if
23 they refuse?

24 A If they said they weren't comfortable to
25 take the test because I want to do the

July 27, 2021

30

1 room scan, well, then, it's how do you
2 want to handle this? Do you want to
3 continue on with taking the test, but I
4 have to let your professor know that you
5 didn't let me scan your room. So I would
6 let them continue with the test, but I
7 would report the situation.

8 Q Has that happened?

9 A Never.

10 Q You never had a student refuse?

11 A Never.

12 Q Is there a policy that you are aware of
13 or given to you from Cleveland State
14 about what to do if the student refuses?

15 A No.

16 Q That never came up when the pandemic
17 started and you were discussing how these
18 remote tests would be conducted?

19 A No, that didn't come up. But if I was in
20 a situation like that, like I said it's
21 no problem. You can still take the exam
22 and I will let your professor know you
23 didn't let me do the scan and then you
24 take it from there.

25 Q Are there written policies for your

July 27, 2021

31

1 office about how to conduct remote
2 proctoring?

3 A Not that I have seen, no, sir.

4 Q Were you given just verbal instruction
5 about how to conduct the remote
6 proctoring?

7 A Yes.

8 Q Given by whom?

9 A That would be my supervisor, Shelly Lamb.

10 Q What's her title?

11 A Test coordinator.

12 Q And did the test coordinator tell you
13 that a room scan was required for remote
14 testing?

15 A Yeah. That's how we would handle it,
16 just like we would handle it with you
17 walking in.

18 Q All I'm getting at is a room scan is not
19 something you decided on your own you
20 should do, this was instruction given to
21 you by CSU?

22 A Yes.

23 Q Could a professor decide for a given test
24 that a room scan is not required?

25 A Sure.

July 27, 2021

32

1 Q Is there a default whether a room scan is
2 required or not required? Do you
3 understand my question?

4 A Not really, no.

5 Q All right. Is your presumption going in
6 that a room scan will be required unless
7 a professor tells you otherwise?

8 A Correct, yes.

9 Q Do proctors have the authority to have a
10 student redo the scan if you think that
11 it was too fast or missed something?

12 A I would think so, yes. But I do my scan
13 and then sit. I do my scan, they do
14 their scan, and unless there was
15 something that was perceived as it
16 shouldn't be there, I wouldn't ask them
17 to do it again, no. Like I said, it
18 wasn't like written policy.

19 Q Have you ever had to ask a student to
20 redo a scan?

21 A Nope.

22 Q Have you ever asked the student to hold
23 their camera on something so that you can
24 get a better look?

25 A No.

July 27, 2021

33

1 Q Have you ever caught a student trying to
2 cheat through -- has your room scan ever
3 caught a student trying to cheat?

4 A No.

5 Q Have you ever caught a student trying to
6 cheat on a remote test through any means?

7 A No.

8 Q What about in person? Have you ever
9 caught a person trying to cheat in
10 person?

11 A Oh, yeah. Oh, yeah.

12 Q You said that in sort of a knowing way.
13 Is that something that's happened a lot
14 or just a handful of times?

15 A I've been testing for 20 years and I have
16 caught only about, I'd say 10 to 15
17 people.

18 Q Is there a most popular means of cheating
19 that people use that you have caught?

20 A Mainly trying to sneak in cell phones.

21 Q And then look up answers using the
22 Internet?

23 A Yeah.

24 Q What about having paper materials they
25 are not allowed to have? Have you caught

July 27, 2021

34

1 them doing that?

2 A Yes, I have.

3 Q Anything else that you can recall about
4 ways they have cheated?

5 A We caught one hiding notes in the
6 bathroom, and then they have to go to the
7 bathroom a whole lot.

8 Q Anything else you can think of?

9 A Let's see. Cell phone, tiny little cheat
10 sheets that are about that big. Itty-
11 bitty. I only found one of those though.
12 That's it.

13 Q How many in-person exams do you think you
14 have proctored over the course of your 15
15 years? Is it so many you couldn't
16 possibly count?

17 A Yeah.

18 Q Is it in the thousands or hundreds?

19 A In the thousands. I mean, I have done
20 the CFA exam which has had anywhere from
21 200 to 300 for the last 20 years.
22 Practice exams, I used to run those, and
23 that was a couple hundred people on a
24 Saturday.

25 Q What about remote exams? How many do you

July 27, 2021

35

1 think you have proctored that are remote
2 exams?

3 A Maybe 50, if that. I don't know. But
4 not as many as in person.

5 Q During a remote exam students aren't
6 allowed to use their cell phones
7 typically, right?

8 A I'm sorry, during a remote you said?

9 Q Yeah.

10 A No. During any exam they are not allowed
11 to use their phones unless it's
12 explicitly said by the professor.

13 Q And during a remote exam students are not
14 allowed to leave the camera view,
15 correct?

16 A Well, if they have to use the bathroom I
17 can't stop them.

18 Q Okay.

19 A I would allow them of course.

20 Q But that's the same in person then I
21 assume?

22 A Yes. Unless it's explicitly said by the
23 professor they are not to leave the room.
24 I'm talking far and few between have I
25 ever had someone say they are not allowed

July 27, 2021

36

1 to use the bathroom during an exam. I
2 mean, this is not kindergarten.

3 So I did have one professor a long
4 time ago where it was their exam had to
5 be submitted before they can leave, but
6 it was also a short exam. It wasn't like
7 a 2- to 3-hour exam. It was maybe a
8 45-minute exam. So they had to submit it
9 before they could leave the room. But
10 it's not often.

11 Q Are there other computer programs besides
12 Blackboard that you have used to
13 administer remote tests or is Blackboard
14 about it?

15 A Blackboard is it.

16 Q Let me switch gears and talk about Zoom.
17 Before I do that, do you need a break of
18 any kind?

19 A No, I'm good.

20 Q So you have been doing remote testing
21 since the pandemic?

22 A Correct.

23 Q All right. Do you use Zoom for that? Is
24 that the video conference method?

25 A Yes, sir.

July 27, 2021

37

1 Q Are the Zooms recorded when you are
2 proctoring remotely?

3 A Yes, sir.

4 Q Do you have to start the recording as a
5 proctor or is that done automatically?

6 A That's done automatically.

7 Q Are you aware that when you are using
8 Zoom there are different ways to set up
9 the view of what you see and who you see
10 on the screen?

11 A I didn't know that until the other day.

12 Q Okay. Do you know that now?

13 A Yes.

14 Q You could have a gallery view where you
15 can see everything in the meeting?

16 A Yes.

17 Q Or you might have it set where only the
18 person who is speaking at the time shows
19 up on the screen?

20 A I know that now.

21 Q All right.

22 A It was whenever they started it whoever
23 set it up.

24 Q Somebody sets that up? So when you are
25 doing a remote test someone sets that up

July 27, 2021

38

1 for you?

2 A I didn't know about the controls. Who
3 set up that meeting. I can't recall.
4 But I didn't know about the whole control
5 thing. Because I can see everybody since
6 I'm the host so I always can see
7 everything going on. As far as the
8 recording goes, that's when you get into
9 those views and that.

10 Q Do you ever watch the videos back?

11 A Never unless I had to.

12 Q So the test I'm going to ask you about
13 was from February of 2017, and one of the
14 students was Aaron Ogletree, and I think
15 it was a chemistry class. Do you know
16 what I'm talking about?

17 A Yes.

18 Q All right. Have you watched that video
19 since that test?

20 A Yes.

21 Q I'm going to play just a little bit of it
22 for you. I will put it on my share
23 screen and I will mark this Exhibit 4.

24 A Sounds good.

25 - - - - -

July 27, 2021

39

(Plaintiff's Exhibit 4
marked for identification.)

- - - - -

MR. BESSER: Lisa, since we
have the video, you don't need to transcribe
it.

Q So I'm going to play about a little under
two minutes of it to start and then I
will stop and ask you some questions,
okay?

A Sure.

Q Can you see that?

A Yes.

MR. MARTI: Matt, I can't
hear that.

MR. BESSER: I know. It
will kick in in a second I think.

A I was remote at home. Shelly was here.
I was having difficulty starting the
actual meeting.

Q Okay. I'm going to try unplugging my
microphone and see if that does the
trick. Do you guys hear anything?

MR. MARTI: I still can't
hear anything.

July 27, 2021

40

1 MR. BESSER: Can you hear
2 me now?

3 MR. MARTI: We can hear you
4 but not the video.

5 THE WITNESS: I can't hear
6 the video either.

7 MR. BESSER: Why don't we
8 take a short break while I try to figure this
9 out. Just a couple minutes.

10 THE WITNESS: I'm going to
11 take about five minutes because I'm going to
12 use the restroom.

13 MR. BESSER: Okay. That's
14 fine.

15 (Whereupon, a brief recess was
16 taken.)

17 Q I think I figured out the issue of the
18 video so I'm going to play it again. If
19 you can't hear it, just wave wildly.
20 Like I said, I'm going to play about a
21 minute, 52 seconds. Something like that.
22 (Video played.)

23 A Okay.

24 Q So are you able to hear that okay?

25 A Yes. Did you stop it or was I frozen

July 27, 2021

41

there?

Q I stopped it.

A Okay.

Q I'm just going to ask you some questions.

So the first couple of minutes of this video, Exhibit 4, that's you setting up another student to take this test?

A Yes.

Q I think you said that while you proctor these remote tests, you could see everybody because you have a gallery view on?

A Yes.

Q In the video clip I played for you, the camera switches back and forth between you and the student depending on who is talking, is that right?

A Right. Yeah, that's what was happening.

Q But you can see her the whole time?

A Yes.

Q So that student was in her bedroom, correct?

A Yes.

Q And then she does a room scan and you ask her to show her surroundings?

July 27, 2021

42

1 A Yeah. It was brief.

2 Q All right. And it looked like there were
3 some papers in her area. Did you see
4 that?

5 A Yeah.

6 Q But that was okay? That wasn't something
7 that required further review?

8 A Well, I assume that was what she had just
9 put down after I told her to put it down.

10 Q All right. So after that student I think
11 you let in a second student and then
12 Aaron.

13 A Right.

14 Q Unless you want to see the second
15 student, I was going to fast forward to
16 when Aaron comes in.

17 A Yes, please.

18 Q So I'm going to fast forward when Aaron
19 comes in and I will play about 45 seconds
20 to a minute and then we'll stop it again.

21 A Okay.

22 (Video played.)

23 Q Were you able to hear the clip?

24 A Yes.

25 Q All right. So this was you getting Aaron

July 27, 2021

43

1 ready to take this test?

2 A Yes.

3 Q So you ask him to do a room scan and he
4 does it, correct?

5 A Correct.

6 Q And as with the first student, the camera
7 is going back and forth depending on
8 whether it's you or he talking?

9 A I believe so, yes.

10 Q Yes or no?

11 A Yes.

12 Q Let me do it again with the audio. One
13 second. (Video played.)

14 A Matthew?

15 Q Can you hear me now?

16 A Yeah.

17 Q Okay. So during that clip I played the
18 room scan occurred, correct?

19 A Yes.

20 Q All right. And the entire room scan does
21 not show up on the video, and I'm not
22 saying there is anything wrong with it,
23 but the entire room scan does not show up
24 on the video because you had said
25 something during the room scan, correct?

July 27, 2021

44

1 A I believe so. I think so.

2 Q Again, you can see all the students
3 during the entire time?

4 A Yes.

5 Q Even though the video clip we have
6 doesn't show the students during the
7 entire time?

8 A Correct.

9 Q One of the things you said during this
10 clip was, "I can see you have your scrap
11 paper."

12 A Right.

13 Q So we didn't see that on the clip I don't
14 think. Was he doing the room scan while
15 you are saying that?

16 A Yeah. It was a quick scan.

17 Q And then at the end of it you asked if
18 he's on Blackboard and then you start the
19 test, correct?

20 A Right. And I give him the password.

21 Q So is it fair to say that the scan lasted
22 something like 10, 15 seconds?

23 A Yeah.

24 Q And am I correct you found no evidence of
25 anything that would stop him from taking

July 27, 2021

45

1 the test or that it needed to be
2 recorded?

3 A Correct.

4 Q I think I'm done. Let me just pause here
5 for a minute and review my notes to make
6 sure, okay?

7 A Okay.

8 Q So I'm just going to turn off my camera
9 and microphone for a minute.

10 A No problem.

11 Q Real quick. How many proctors are there
12 in your office, the Office of Testing
13 Services?

14 A Now or during the pandemic.

15 Q Throughout the pandemic.

16 A Throughout the pandemic, I was mainly
17 doing most of them. Professors really
18 stepped up during the pandemic. Some of
19 them did final papers and figured out
20 other ways besides exams. So we weren't
21 as busy as normal so I did most of them.
22 Shelly would also proctor. And I think
23 we had one grad student proctor once or
24 twice but that was it.

25 Q Do you know whether Shelly and the grad

July 27, 2021

46

1 student himself used a room scan
2 procedure?

3 A I would say yes, but I don't know.

4 Q Okay. You don't have to guess. It's
5 okay.

6 A That would be on them. I don't know.

7 Q Are you still doing remote proctoring?

8 A Far and few between. It's summertime.

9 Q Right. Do you anticipate that you'll be
10 doing remote proctoring during the fall?

11 A Only for extreme cases that cannot come
12 to campus.

13 Q Have you been instructed or told by the
14 school to change any of the policies and
15 procedures about doing Zoom proctoring,
16 remote proctoring?

17 A No.

18 Q Nobody at the school has instructed you
19 to stop the room scan policy?

20 A No, not to me directly.

21 Q Do you know whether the room scan policy
22 is going to continue, is set to continue
23 for remote proctoring?

24 MR. MARTI: Objection to the
25 characterization of the policy. Go ahead and

Iris - Iris Zana
July 27, 2021

47

1 answer, Iris.

2 A I don't know.

3 MR. BESSER: Okay. All
4 right. I don't have anything further for you.
5 Thank you so much for your time. I really
6 appreciate it. Todd and Ashley will advise
7 you from here.

8 EXAMINATION

9 BY MR. MARTI:

10 Q Iris, I actually have a few questions for
11 you, but I don't think it will take too
12 long. Just for the sake of the record,
13 my name is Todd Marti. I represent the
14 defendants in the case.

15 So as I understand it, you have done
16 a lot of in-person proctoring and some
17 remote proctoring you said. Is that a
18 fair summary?

19 A Yes, sir.

20 Q Okay. Based on your experience with
21 those two types of proctoring, what's
22 your view on the potential for cheating
23 in remote versus in-person?

24 MR. BESSER: Objection.
25 You can answer. I don't have the right to

Murda - This is a
July 27, 2021

48

1 tell you not to answer.

2 A Okay. My opinion, personal opinion?

3 Q Yeah.

4 A I would say that it would be 10 times
5 more likely that I cannot catch somebody
6 in a remote setting that I can when we
7 are live.

8 Q And why is that?

9 A Because I don't have a camera that can
10 Zoom in or move around the way that we
11 have here and we get just a face view
12 like I'm seeing you now. You could have
13 something on your lap right now. I don't
14 know that. I don't know what's going on.
15 So there could be stuff taped where I
16 would have no idea, you know.

17 Q Can those things occur during an
18 in-person?

19 A No. I control my environment.

20 Q Okay. So is it fair to say that the
21 students are under much more scrutiny in
22 person than they are remotely?

23 A Absolutely.

24 Q Okay. So when you proctor a remote test,
25 do you require the students to take them

July 27, 2021

49

1 at any particular location?

2 A No.

3 Q So they choose whether it's in their
4 home?

5 A They choose. They just need to be on
6 that meeting at that time.

7 Q Okay. So it's completely up to them?

8 A Yes.

9 Q And we talked about scans a few minutes
10 ago and we saw the one in this case.

11 Am I correct in understanding you
12 generally only do one scan at the
13 beginning of the test, is that correct?

14 A Correct.

15 Q Okay. So are you looking at the
16 student's environment, the immediate
17 surroundings during the rest of the exam?

18 A No. I'm mainly looking at the student.
19 I'm catching eye movement. I'm just
20 seeing the body language and that's all I
21 can do from that position.

22 Q And would you look for those same things
23 during an in-person exam?

24 A Yes.

25 Q And, by my count, the entire interaction

July 27, 2021

50

1 that we saw on the tape between you and
2 Mr. Ogletree lasted about 40 seconds.

3 A Okay.

4 Q Is that typical of the preliminary
5 proceedings you have in these online
6 tests?

7 A Yeah, I would say that's normal. I feel
8 it was a little quicker than the other
9 two young ladies that were before him.

10 Q Okay. And how is that?

11 A I mean, I asked him for all the -- I mean
12 the room scan was a little quicker. I
13 think they were about the same though. I
14 know he came into the meeting a little
15 bit later than the other girls, so it was
16 more of let's get this together. Let's
17 do the ID, the room scan. You have this,
18 you have that and let's go. Let's start.

19 Q In other words, let's get on the road?

20 A Right.

21 Q So when you do one of these room scans,
22 what is it that you are showing? How
23 much do you scan?

24 A It depends. Some people have their
25 desktop where they can't lift them and

July 27, 2021

51

1 can't move them around as well, but
2 mainly I just kind of want to see what's
3 in front of them besides their computer.
4 If there are any cheat notes or a
5 cell phone mainly.

6 Q Okay. So we just watched the scan that
7 Mr. Ogletree did and the first student
8 did. Are those pretty typical in the
9 lengths and extent of the scans that you
10 do?

11 A Yes.

12 Q During the early part of the deposition,
13 you were asked about some software. I
14 think it was ProctorU, something like
15 that. Does that ring a bell?

16 A I mentioned ProctorU is what we looked
17 into using during the pandemic but it was
18 decided they were cost prohibitive.

19 Q Did they involve the scanning as well?

20 A All of those involve scanning, yes.

21 Q And could you compare the extent of the
22 scans that they require to the extent of
23 the scans that you generally require?

24 A Personally, no. I have heard that theirs
25 is just a little more intensive than

Hilda Ellis Zana
July 27, 2021

52

1 ours.

2 Q So when you are doing the video
3 monitoring of these remote exams, who
4 else can see the screen that you are
5 looking at?

6 A Me. That's it.

7 Q Is there anybody else, any of your other
8 colleagues at CSU?

9 A Only if they are logged on. Like Shelly
10 was logged in at the same time I was.
11 Remember in the beginning I was having
12 technical difficulties? It wasn't coming
13 up and I couldn't let them into the room
14 so she called me and said, "What's going
15 on?" And I told her I was having trouble
16 so she logged on to at least greet
17 Hannah, which was the first student, so
18 that they knew we were there, and then
19 once it started rolling, then you see her
20 disappear and it's just me with the
21 students.

22 Q So she logs on to get it started and then
23 she logs off?

24 A Yes.

25 Q So once she is off the only person that

July 27, 2021

53

1 can see the video is you?

2 A Yes.

3 Q Okay. Now, can the other students see
4 everything that you can see while you are
5 monitoring the video stream?

6 A I don't know.

7 Q Okay. Now, you mentioned these videos
8 are recorded.

9 A Yes, into the Cloud.

10 Q And how long are they retained, do you
11 know?

12 A I have no idea what Zoom protocols are.
13 I don't know.

14 Q How about in terms of what CSU does?

15 A Usually ours are only retained for 30
16 days and they are typically not reviewed
17 unless there is an issue.

18 Q Okay. And who has access to those while
19 they are still being retained?

20 A I don't even have access to those. Our
21 cyber security I guess. To be honest
22 with you, I don't know.

23 Q So is it fair to say that not just anyone
24 can access these videos?

25 A No. No. Like I said, I can't even

July 27, 2021

54

1 access them. I have to ask permission.

2 It's illegal.

3 Q Okay. They are not readily available
4 then?

5 A Absolutely not.

6 Q Are you familiar with how other
7 organizations conduct remote proctoring?

8 A Only reading a little bit on our NCTA
9 chat rooms. We have compared and talked,
10 but physically knowing, no.

11 Q What is NCTA, is that what it was?

12 A Yes. National Testing Center
13 Association, I believe. I have to write
14 it out. National College Testing
15 Association.

16 Q Some national organization?

17 A Yes.

18 Q Basically people that do the kind of work
19 that you do?

20 A Correct. It's like a group, yeah.

21 Q Are these just university people or does
22 it go beyond that?

23 A Mainly university but they also do
24 national testing.

25 Q Now, you mentioned that term before.

July 27, 2021

55

1 What do you mean by national testing?

2 A So your certification exams, your
3 teachers licensures. Not just my
4 professor says I need to take this for my
5 professor. These are to certify you for
6 your career.

7 Q So like LSAT, MCAT things like that?

8 A Right. Those are your national exams,
9 teacher licensures. There's one for
10 teaching. Pearson does quite a few tests
11 for certification for our teachers'
12 licensures. So we do some of those.
13 Miller Analogies. That's another
14 national exam. That determines whether
15 you are going to get into grad school.
16 So is the GRE.

17 Q Is that the ACT, SAT?

18 A Yes.

19 Q So when those are done remotely, is there
20 generally a room scan component to those?

21 A I have never done a remote one, and I
22 would imagine those would be -- I've
23 never heard of a national one going on
24 with the pandemic. They probably did. I
25 don't know so I couldn't tell you.

July 27, 2021

56

1 Q Fair enough. So when you do ask students
2 to do the room scan, has anyone
3 ever complained about that to you?

4 A Never.

5 Q Have any of your colleagues ever
6 mentioned to you that other students have
7 complained about that?

8 A No.

9 Q Have you ever heard of any complaints
10 about that from the folks that you speak
11 to on the organizations we just
12 discussed?

13 A Not that I recall.

14 Q Okay. Can you think of any alternatives
15 to the room scan to accomplish the
16 purpose it serves?

17 MR. BESSER: Objection.

18 A I couldn't think of any.

19 Q Okay. Fair enough.

20 So when you did the scan for
21 Mr. Ogletree, did you see any tax
22 documents?

23 A No. The only thing I literally seen was
24 the formula sheet, which he said "This is
25 my formula sheet," and I said okay. I

July 27, 2021

57

1 didn't even really see scrap paper. The
2 room was pretty dark. Then pretty much I
3 started.

4 Q I'm glad you mentioned that. That's
5 something I wanted to ask you about.

6 Before he appears on the screen,
7 you've a minute to say you've got your
8 scrap paper, your ID, that sort of thing,
9 but is he holding those up in front of
10 the camera? Is that why you were able to
11 see them?

12 A Yes.

13 Q So it wasn't part of the scan, it was
14 something that he presented to you?

15 A Yes, I believe so.

16 Q All right. So when you did the scan, did
17 you see any medications or any
18 prescriptions laying around?

19 A No.

20 Q Okay.

21 A If you viewed what I viewed, his room was
22 pretty black.

23 Q Okay. So if I understood you correctly,
24 you haven't used the Respondus or the
25 Honorlock software in your work?

July 27, 2021

58

1 A I have not, no.

2 Q I think those are all the questions I
3 have for you. I appreciate your time,
4 Iris. Matt may have more questions. I
5 don't know.

6 A Okay.

7 EXAMINATION

8 BY MR. BESSER:

9 Q I have just about three follow-ups from
10 that.

11 So since you haven't used them, is it
12 correct to say you don't know whether the
13 Respondus process or monitoring tools
14 require a room scan as part of their
15 policies and procedures?

16 A Correct. I wouldn't know. I'm not
17 familiar with them.

18 Q I think you said that it was harder to
19 catch someone cheating remotely than in
20 person. Did you say that?

21 A Yes, I did.

22 Q Okay. And it is true that there is no
23 foolproof way to catch someone cheating
24 on a remote test?

25 A Correct.

July 27, 2021

59

1 Q If someone was doing a room scan and had,
2 say, a post-it note taped to their
3 computer screen, that room scan wouldn't
4 show the post-it note, correct?

5 A Correct.

6 MR. BESSER: I don't have
7 anything further. Thank you.

8 MR. MARTI: Nor do I.
9 Iris, if this transcript is printed up, you
10 have the right to read the printed version of
11 it to look for mistakes, errors, that sort of
12 thing. You could also waive that right.

13 Do you have a preference one
14 way or the other?

15 THE WITNESS: I'm fine. I
16 can waive it.

17 MR. MARTI: So you don't
18 care whether you read it or not then?

19 THE WITNESS: No, not
20 really.

21 MR. MARTI: I think that's
22 a waiver.

23 THE WITNESS: Yes, sir.

24 MR. MARTI: Well, Iris, we
25 appreciate your time. I think we are done for

July 27, 2021

60

1 the day and thank you very much.

2 THE WITNESS: Okay. You're
3 welcome.

4 (Deposition concluded at 11:58 a.m.)
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Hilda Iris Zana
July 27, 2021

61

1 The State of Ohio,)

2) SS: CERTIFICATE
3 County of Cuyahoga.)

4 I, Lisa A. Stropko, Notary Public within
5 and for the State of Ohio, duly commissioned
6 and qualified, do hereby certify that the
7 within-named HILDA IRIS ZANA was, by me, first
8 duly sworn to testify the truth, the whole
9 truth, and nothing but the truth in the cause
10 aforesaid; that the testimony then given by
him/her was by me reduced to stenotypy in the
presence of said witness, afterwards
transcribed on a computer, and that the
foregoing is a true and correct transcript of
the testimony so given by him/her as
aforesaid.

11 I do further certify that this deposition
12 was taken at the time and place in the
foregoing caption specified.

13 I do further certify that I am not a
14 relative, employee of, or attorney for any of
15 the parties in the above-captioned action; I
16 am not a relative or employee of an attorney
17 for any of the parties in the above-captioned
18 action; I am not financially interested in the
action; I am not, nor is the Court reporting
firm with which I am affiliated, under a
contract as defined in Civil Rule 28(D); nor
am I otherwise interested in the event of this
action.

19 IN WITNESS WHEREOF I have hereunto set my
20 hand and affixed my seal of office at
21 Cleveland, Ohio, on this 10th day of August,
22 2021.

Lisa A. Stropko

Lisa A. Stropko, Notary Public

23 In and for the State of Ohio.
24 My commission expires March 25, 2023
25